

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TROY MAGARRELL,

Plaintiff, No. CIV S-04-2634 LKK DAD P

vs.

P. MANGIS, M.D., et al.,

Defendants. ORDER

Plaintiff is a state prisoner proceeding through counsel with an action under 42 U.S.C. § 1983. This case was referred to U.S. Magistrate Judge Craig S. Kellison to conduct a settlement conference at California State Prison-Corcoran (CSP-COR) on December 8, 2009, at 12:00 p.m. Magistrate Judge Kellison has notified the court that the case did not settle.

Accordingly, IT IS HEREBY ORDERED that:

1. Pretrial Conference is set in this case for June 21, 2010 at 2:30 p.m. in Courtroom 4 before the Honorable Lawrence K. Karlton. The Pretrial Conference will not require the attendance of the plaintiff-prisoner. All counsel are cautioned that counsel appearing for Pretrial Conference will in fact try the matter. Counsel for all parties are to be fully prepared for trial at the time of the Pretrial Conference, with no matters remaining to be accomplished except production of witnesses for oral testimony. Counsel are referred to Local Rules 280 and

1 281 relating to the contents of and time for filing Pretrial Statements. In addition to those  
2 subjects listed in Local Rule 281(b), the parties are to provide the court with a plain, concise  
3 statement which identifies every non-discovery motion tendered to the court, and its resolution.  
4 A FAILURE TO COMPLY WITH LOCAL RULES 280 AND 281 WILL BE GROUNDS FOR  
5 SANCTIONS.

6           2. The parties shall file Separate Pretrial Statements, the contents and timing of  
7 which are set forth in Local Rule 281, except that the parties are to prepare a JOINT  
8 STATEMENT with respect to the undisputed facts and disputed factual issues of the case. See  
9 Local Rule 281(b)(3), (4), and (6). The parties are reminded to include in their joint statement all  
10 disputed and undisputed special factual information as required by Local Rule 281(b)(6). The  
11 undisputed facts and disputed factual issues are to be set forth in two separate sections. In each  
12 section, the parties should identify first the general facts relevant to all causes of action. After  
13 identifying the general facts, the parties should then identify those facts which are relevant to  
14 each separate cause of action. In this regard, the parties are to number each individual fact or  
15 factual issue. Where the parties are unable to agree as to what factual issues are properly before  
16 the court for trial, they should nevertheless list in the section on “DISPUTED FACTUAL  
17 ISSUES” all issues asserted by any of the parties and explain by parenthetical the controversy  
18 concerning each issue. Each individual disputed fact or factual issue shall include the following  
19 introductory language: “Whether or not . . . .” The parties should keep in mind that, in general,  
20 each fact should relate or correspond to an element of the relevant cause of action.

21 Notwithstanding the provisions of Local Rule 281, the Joint Statement of Undisputed Facts and  
22 Disputed Factual Issues is to be filed with the court concurrently with the filing of plaintiff's  
23 Pretrial Statement. If the case is tried to a jury, the undisputed facts will be read to the jury.

24           3. Pursuant to Local Rule 281(b)(10) and (11), the parties are required to provide  
25 in their Pretrial Statements a list of witnesses and exhibits that they propose to proffer at trial, no  
26 matter for what purpose. These lists shall not be contained in the Pretrial Statement itself, but

1 shall be attached as separate documents to be used as addenda to the Final Pretrial Order.  
2 Plaintiff's exhibits shall be listed NUMERICALLY; defendants' exhibits shall be listed  
3 ALPHABETICALLY. In the event that the alphabet is exhausted, defendants' exhibits shall be  
4 marked "2A-2Z, 3A-3Z, etc." The Pretrial Order will contain a stringent standard for the  
5 proffering of witnesses and exhibits at trial not listed in the Pretrial Order. Counsel are cautioned  
6 that the standard will be strictly applied. On the other hand, the listing of exhibits or witnesses  
7 which counsel do not intend to call or use will be viewed as an abuse of the court's processes.

8           4. Pursuant to Local Rule 281(b)(12), a party is required to provide a list of all  
9 answers to interrogatories and responses to requests for admission that the party expects to offer  
10 at trial. This list should include only those documents or portions thereof which the party expects  
11 to offer in its case-in-chief. Unless otherwise barred by a rule of evidence or order of this court,  
12 the parties remain free to tender appropriate discovery documents during trial for such purposes  
13 as, but not limited to, impeachment or memory refreshment.

14           5. Pursuant to Local Rule 281(b)(8), the parties' Pretrial Statements shall contain  
15 a "statement of legal theory, etc." Each party shall commence this section by specifying as to  
16 each claim whether federal or state law governs, and if state law, the state whose law is  
17 applicable.

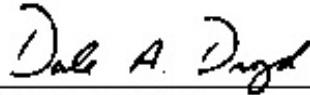
18           6. Counsel are reminded that, pursuant to Fed. R. Civ. P. 16, it will be their duty  
19 at the Pretrial Conference to aid the court in (a) formulation and simplification of issues and the  
20 elimination of frivolous claims or defenses; (b) settling of facts which should be properly  
21 admitted; and (c) the avoidance of unnecessary proof and cumulative evidence. Counsel must  
22 prepare their Pretrial Statements, and participate in good faith at the Pretrial Conference, with  
23 these aims in mind. A FAILURE TO DO SO MAY RESULT IN THE IMPOSITION of  
24 SANCTIONS which may include monetary sanctions, orders precluding proof, eliminations of  
25 claims or defenses, or such other sanctions as the court deems appropriate.

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1           7. This matter is set for jury trial before the Honorable Lawrence K. Karlton on  
2 September 21, 2010 at 10:30 a.m. in Courtroom 4.

3 DATED: April 5, 2010.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE